

GRIEVANCE SUMMARY

TO: State Professional Responsibility Board

FROM: Angela W. Bennett, Assistant Disciplinary Counsel

RE: CRAIG WYMETALEK, Hillsboro (Bar No. 964641) **Status:** Active
Complainant: Gina L. Setter (Dec. 26, 2018)

DATE: July 3, 2019

OVERVIEW

Attorney Craig Wymetalek (Wymetalek) forged court orders and gave them to his client, David Jay Schwartz (Schwartz), to conceal his prior inaction in Schwartz's case. Schwartz took the documents to the court where Court Manager Gina L. Setter (Setter) discovered that the documents were forged.

PERSONS INVOLVED

<u>Craig Wymetalek</u>	Respondent
<u>Gina L. Setter</u>	Complainant, Clackamas County Circuit Court Manager
<u>Lisa Edwards</u>	Judicial Assistant to Judge Jones
<u>David Jay Schwartz</u>	Wymetalek's former client

SUMMARY OF GRIEVANCE

In October 2018, Schwartz, a petitioner in a pending case, visited the Clackamas County Circuit Court's front counter to ask about the status of his case. As part of that discussion, he presented court orders that appeared to have been properly filed by his attorney (Wymetalek) and signed and processed by the court.

Setter and Lisa Edwards (Edwards), the judicial assistant to Judge Jones, reviewed the case file and determined that the documents were not valid court documents. Setter called and emailed Wymetalek's office, but with no success. Edwards also attempted to contact Wymetalek and did not receive a response.

Setter provided copies of the falsified documents to the Bar (attached). They all include Wymetalek's firm name and address in the footer. The first document is an Order

to Show Cause re: Modification of Spousal Support that was purportedly granted and signed by Judge Jones, with the signature time-stamped, "Signed: 5/18/2017 11:18 AM."

The second document is an Order Allowing Alternative Service of Motion, Declaration and Order to Show Cause. The Order purportedly grants Petitioner's Ex Parte Motion for Alternative Service. The apparent signature of Judge Jones is time-stamped "Signed: 9/25/2017 12:54 PM." Under the heading "UTCR 5.100 certification," Wymetalek signed and dated the document for August 29, 2017.

Lastly, there is an Amended Order to Show Cause re: Modification of Spousal Support. The document purports to be an Order granting Petitioner's motion. It bears Judge Herndon's signature which is time stamped, "Signed: 11/09/2017 03:12 PM." Under the heading "Certificate of Readiness," Wymetalek signed the pleading and dated it October 13, 2017.

Setter reports that the documents described above were those brought to the court's window by Schwartz, and none of the documents are present in the official case file.

SUMMARY OF RESPONSE

Wymetalek admits that he created and falsified the pleadings and sent them to Schwartz. He acknowledges that it was a significant lapse in judgment. He created the pleadings in response to Schwartz's demand to see the pleadings he had filed. At the time, Wymetalek [REDACTED]

[REDACTED] He would not have made this decision if he were in better health.

Wymetalek details several personal issues that were affecting him at the time. This includes [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

At the beginning of May 2018, they were waiting to hear if [REDACTED] when he received an email from Schwartz saying that he had looked at the court filings and found that the case had not progressed. Schwartz wanted copies of the pleadings that had been filed immediately. [REDACTED] Wymetalek “pulled together paperwork and sent it to Mr. Schwartz hoping to get a short reprieve.”

Wymetalek denies that he intended to pass these pleadings off to another party, gain an advantage in a legal proceeding or attempt to defraud the court. He admits he intended to deceive his client to buy more time. He did not charge Schwartz for the documents.

From May through September of 2018, Wymetalek attempted to make progress resolving Schwartz’s case, but was unable to do so. [REDACTED]

Wymetalek contends that he did not knowingly fail to respond to the court’s inquiries about the situation. He denies having received emails from Setter or Edwards. He has one voicemail from Edwards, but he does not know whether it is related to this matter.

Wymetalek has been practicing law in Oregon for 22 years. He believes himself to be an honest person and lawyer. He has never misrepresented anything to the court or his clients prior to this situation.

ADDITIONAL INFORMATION

It appears that Wymetalek never appeared on Schwartz’s behalf in his dissolution proceeding, nor did he file any pleadings in the matter. According to the court docket for Schwartz’s case, Wymetalek is not listed as Schwartz’s current or past attorney. The case was filed in 2013 and concluded in 2016. The docket shows no activity since early 2016.

ETHICS ANALYSIS

**PUBLIC RECORD
CONFIDENTIAL MATERIAL DELETED**

PUBLIC RECORD
CONFIDENTIAL MATERIAL DELETED

PROBABLE CAUSE RECOMMENDATIONS

PUBLIC RECORD
CONFIDENTIAL MATERIAL DELETED

PRIOR DISCIPLINE

None.

DISPOSITION RECOMMENDATION

**PUBLIC RECORD
CONFIDENTIAL MATERIAL DELETED**